

City Council Introduction: **Monday**, April 23, 2001  
Public Hearing: **Monday**, April 30, 2001, at **5:30 p.m.**

Bill No. 01-74

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 3306**, from R-1 Residential and R-2 Residential to R-T Residential Transition, requested by Brian D. Carstens and Associates on behalf of Krein Real Estate, on property generally located on the west side of the intersection of So. 56<sup>th</sup> Street and Waltz Road, 1/4 mile south of Old Cheney Road.

**STAFF RECOMMENDATION:** Approval

**ASSOCIATED REQUESTS:** Use Permit No. 138 (01R-98).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 04/04/01  
Administrative Action: 04/04/01

**RECOMMENDATION:** Approval (7-0: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn voting 'yes'; Bayer and Duvall absent).

### **FINDINGS OF FACT:**

1. This change of zone and the associated Use Permit No. 138 were heard at the same time before the Planning Commission.
2. The Planning staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on p.4-6, concluding that the proposal is inconsistent with the land use plan but compliant with the general concepts of the Comprehensive Plan.
3. The minutes of the Planning Commission are found on p.7-8.
4. The applicant's testimony is found on p.7.
5. Testimony was no testimony in opposition.
6. The Commission discussion with staff is found on p.7-8.
7. On April 4, 2001, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval (See Minutes, p.8).

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** April 16, 2001

**REVIEWED BY:** \_\_\_\_\_

**DATE:** April 16, 2001

**REFERENCE NUMBER:** FS\CC\FSCZ3306

## **LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**P.A.S.:** Change of Zone #3306

**DATE:** March 22, 2001

**PROPOSAL:** Amend the zoning map from R-1 and R-2 Residential to R-T Residential Transition.

### **GENERAL INFORMATION:**

**APPLICANT:** Krein Real Estate, Inc.  
4750 Normal Blvd., Suite 3  
Lincoln, NE 68506

**CONTACT:** Brian D. Carstens & Associates  
2935 Pine Lake Road, Suite H  
Lincoln, NE 68516

**LOCATION:** The west side of the intersection of S. 56<sup>th</sup> St. and Waltz Rd., 1/4 mile south of Old Cheney Rd.

**REQUESTED ACTION:** Amend the Zoning Map from R-1 and R-2 to R-T.

**PURPOSE:** To develop 30,000 sq. ft. of Office/Medical uses.

**LEGAL DESCRIPTION:** See attached sheets.

**SIZE:** R-1to R-T: 6.239 acres, more or less.  
R-2 to R-T: 3.789 acres, more or less.

**EXISTING ZONING:** R-1 and R-2 Residential

**EXISTING LAND USE:** Single family house with accessory buildings and mostly covered with quality trees.

**SURROUNDING LAND USE AND ZONING:** To the north is a recreational facility by special permit and zoned R-1 and R-2, to the east across S. 56<sup>th</sup> Street is commercial and zoned H-4 with a special permit for planned commercial, directly to the east is the Country Plaza planned service commercial special permit with 44,400 sq ft of approved commercial use, to the south and west are R-1 and R-2 zoned single family homes.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Land Use Plan shows the site as Urban Residential and Natural/Environmentally Sensitive along the Beal Slough drainage corridor.

## **HISTORY:**

On **August 30, 1971**, City Council denied Change of Zone #1140, which would have changed the zoning east of S.56th and south of Old Cheney Rd. from A-1 Single Family Dwelling to K Light Industrial.

On **May 24, 1976**, City Council approved Special Permit #755 on land to the west, which allowed 349 single family and 170 multifamily dwellings under the Buckingham South CUP. The Buckingham South 2<sup>nd</sup> Addition Preliminary Plat (#76207) was also approved at that time.

The property was converted from A-1 Single Family Dwelling and A-2 Single Family Dwelling to R-1 and R-2 Residential in the **1979 Zoning Update**.

On **April 4, 1983**, City Council approved Change of Zone #2013 on property to the east (Lincoln Trade Center), which changed the zoning on 58.8 acres from AGR Agricultural Residential to H-4 General Commercial. At that time, they approved Special Permit #1013 on the same area, which allowed a 53.4 acre Planned Service Commercial development. At that time this site was shown as Parks & Open Space.

On **September 22, 1986**, City Council approved Special Permit #1013A on the Trade Center property to the east, which allowed 69,250 sq. ft. of Service Commercial and 70,400 sq. ft. of warehouse space on Trade Center property west of the railroad tracks.

On **July 10, 1989**, City Council approved Special Permit #1327 on land to the north, which allowed the construction of a miniature golf course, batting cages and a club house.

On **September 5, 1989**, City Council approved Special Permit #1013D on land to the east, which allowed the construction of a self-storage facility south of Waltz Road.

On **September 16, 1991**, City Council approved Special Permit #1327A on land to the north, which allowed outdoor seasonal sales of fireworks and Christmas trees.

On **October 9, 2000**, City Council approved Change of Zone #3269, Use Permit #131, and Special Permit #1855, changing the zone from R-1 and R-2 to H-4 and R-T, and approving 44,400 square feet of Planned Service Commercial on the east side of Beal Slough and 35,000 square feet of medical/office buildings on the west side of Beal Slough. At the Mayor's request, City Council reconsidered the Change of Zone and the Use Permit on **November 6, 2000**. Council re-passed the Change of Zone, minus the R-T area, and placed the Use Permit on pending.

## **SPECIFIC INFORMATION:**

**UTILITIES:** City utilities are available.

**TOPOGRAPHY:** The slope from the west property line to the east side of the buildings on Lots 5 and 6 is 11%, on Lot 4 is 6.4%, on Lot 3 is 4%, on Lot 2 is 8%, and from the south property line to the south side of the building on Lot 1 is 10%.

Beal Slough flows through the area with an average bank 8' in depth.

**TRAFFIC ANALYSIS:** S. 56<sup>th</sup> Street is classified as an Urban Principal Arterial Street.

S. 56<sup>th</sup> Street is planned to be improved to have four through lanes, left turn lane, and raised medians inside a 100' ROW.

The plan shows an eight foot wide bike path with a 14' wide easement through the site along Beal Slough. This meets the requirements of the Land Subdivision Ordinance

**PUBLIC SERVICE:** The nearest fire station is located at S. 27<sup>th</sup> Street and Old Cheney Road

**REGIONAL ISSUES:** Increase in storm water run-off into Beal Slough.

**ENVIRONMENTAL CONCERNS:** The intrusion of land grading in order to locate buildings and parking lots on land that has steep slopes and wooded areas west and south of Beal Slough.

The Beal Slough Stormwater Master Plan was adopted by the City Council on June 5, 2000 and by the County Board on July 18, 2000 as an official component of the Comprehensive Plan. The Plan identifies water quality issues related to urbanization and includes capital cost elements to improve water quality within the Basin. Parking lots tend to be associated with high pollutant loads. The Beal Slough Stormwater Master Plan notes that the range and average values for oil and grease within the Slough increases as the contributing drainage area increases. "There also appears to be a correlation with the presence of commercial and industrial land uses (i.e., parking lots)" (p. 39).

**AESTHETIC CONSIDERATIONS:** Tree masses will be destroyed in order to locate the buildings south and west of Beal Slough.

**ALTERNATIVE USES:** Develop only the area along S. 56<sup>th</sup> Street east and north of Beal Slough.

**ANALYSIS:**

1. This change was originally requested as part of Change of Zone #3269. Council amended the ordinance to remove the R-T portion and approved Change of Zone #3269 on November 6, 2000.
2. The Land Use Plan shows this site as Urban Residential with Beal Slough identified as a Natural/Environmentally Sensitive area.
3. The future land use plans are specific maps. In some situations, applications will be made for land use changes that are not in conformance with those maps. In each case, the Planning Department will complete an advisory review of Comprehensive Plan compliance for the

Planning Commission and the City Council or County Board. This assessment will follow these guidelines:

- ! If an application is generally consistent with the land use map and the zoning criteria, it will be considered to be consistent with the comprehensive plan.

- ! If an application is not consistent with the land use maps but meets the zoning criteria, the proposal will be found to be inconsistent with the land use plan but compliant with the general concepts of the comprehensive plan. An amendment to the land use plan may be approved along with the rezoning proposal. The land use plan can then be updated on an annual basis to remain current.
- ! If an application is inconsistent with both the land use plan and zoning criteria, it will be considered to be inconsistent with the comprehensive plan. Approval of the project will require an amendment to the comprehensive plan. (Page190)

4. There are seven specific zoning criteria established in the Plan for review including:

**a. Infrastructure: the availability of the water, sewer, drainage and the transportation systems.**

City utilities are available.

The site abuts S. 56<sup>th</sup> Street a major street that is planned to be improved in the future.

**b. Compatibility: harmony and suitability with the surrounding land uses and the natural environment.**

The revised Use Permit provides an appropriate transition from the heavier commercial uses east and north of Beal Slough to the residential neighborhoods to the west and south.

**c. Health and Safety: protection against natural and man-made hazards including noise; air, ground and water pollution; flooding; and hazards from industrial or agricultural processes or products.**

The Use Permit states “all grading shown... shall not reduce the existing 100 year flood plain storage capacity.” The site plan shows constructed wetlands adjacent to parking lots.

**d. Physiographic Features: the topography, suitability of proposed land uses with streams, lakes, soil types, natural vegetation or wildlife habitat.**

Beal Slough flows through the site.

The area west and south of Beal Slough has steep slopes and is mostly covered with quality trees. The revised application preserves more of this tree mass than the previous submittal.

The site provides an area for wildlife.

**e. Accessibility: availability, or lack thereof, of public transportation, arterial connections and pedestrian linkages.**

The northern portion of the site has access to a major street opposite an existing intersection via Waltz Place. The southern access point is close to London Road. As part of the associated Use Permit #138, Public Works has requested that access to S. 56<sup>th</sup> Street be limited to right turns in and out.

**f. Open Space: availability of sufficient open space and recreational areas to accommodate a project's residents and employees.**

The revised application preserves more of the tree mass as open space and provides a trail connection.

**g. Fiscal Impacts: whether the proposed use does not create a burden to local tax revenues and/or available resources.**

There appear to be no fiscal impacts.

5. When compared to the previous application, the revised Use Permit reduces the amount of building coverage, preserves more of the tree mass, reduces the amount of impervious surface in the floodplain, provides better trail access and reduces the amount of grading in this sensitive area. These revisions advance the following goals of the Comprehensive Plan:
  1. Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with but not intrusive upon residential neighborhoods.
  2. Assure that economic development is accomplished with respect for environmental quality.
  3. Maximize opportunities for planned urban development which are sensitive to the natural qualities of the area, including land uses efficiently served by a balanced and energy-efficient transportation system and community services and facilities
  4. Integrate trails into the expansion of the park system, as well as into development of new neighborhoods and subordinate mixed use areas

**STAFF CONCLUSION:** This proposal is inconsistent with the land use plan but compliant with the general concepts of the comprehensive plan.

**STAFF RECOMMENDATION:**

Approval

Prepared by:

Jason Reynolds  
Planner

# **CHANGE OF ZONE NO. 3306 and USE PERMIT NO. 138**

## **PUBLIC HEARING BEFORE PLANNING COMMISSION:**

April 4, 2001

Members present: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn; Bayer and Duvall absent.

Planning staff recommendation: Approval of the change of zone and conditional approval of the use permit.

### Proponents

1. **Brian Carstens** appeared on behalf of **Bill Krein**, the applicant. About 7-8 months ago a similar use permit and special permit came before the Planning Commission. This application has been revised at the request of the City Council and now includes a plan on the west and south side of Beal Slough that is a little more sensitive to Beal Slough as well as the existing tree masses. Carstens requested that Condition #1.1.15 be amended, "Reduce the width of the south Private Driveway to 25'." (instead of 21'). The submittal had shown 27' and Carstens believes that staff will support 25'.

Comparing the previous application with the revised application, Carstens explained that they have basically deleted one building and saved the existing tree mass. The density on the south and west side of Beal Slough has been reduced.

Carlson inquired about impact on floodplain. Carstens advised that all grading is outside of the floodway. There will be no fill in the floodplain. They are not importing any fill. As far as the roadway over the channel, the applicant has a no net rise letter on that issue.

There was no testimony in opposition.

### Staff questions

Hunter inquired about the staff conclusion that the proposal is inconsistent with the Land Use Plan but complies with the general concepts of the Comprehensive Plan. Is this recommended development in this area? Jason Reynolds of the Planning staff explained that the Land Use Map shows a different color coding indicating the type of land use generally recommended for the area. In this case, it showed urban residential and natural environmentally sensitive along the Beal Slough drainage corridor. The Comprehensive Plan states that there are other zoning criteria that can be used to analyze something that is not consistent with the Land Use map and that criteria is outlined in the staff analysis. Staff finds that this application is generally compatible with the zoning criteria and thus is then consistent with the principles of the Comprehensive Plan.

Steward observed that even on that finer point of protection of environmental conditions, it would be true that the urban residential might have proposed greater damage to the tree mass and ground coverage than this use. Reynolds agreed that it is certainly a possibility.

Reynolds indicated that the staff agrees with the proposed amendment to Condition #1.1.15.

Public hearing was closed.

**CHANGE OF ZONE NO. 3306**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

April 4, 2001

Hunter moved approval, seconded by Krieser and carried 7-0: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn voting 'yes'; Bayer and Duvall absent.

**USE PERMIT NO. 138**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

April 4, 2001

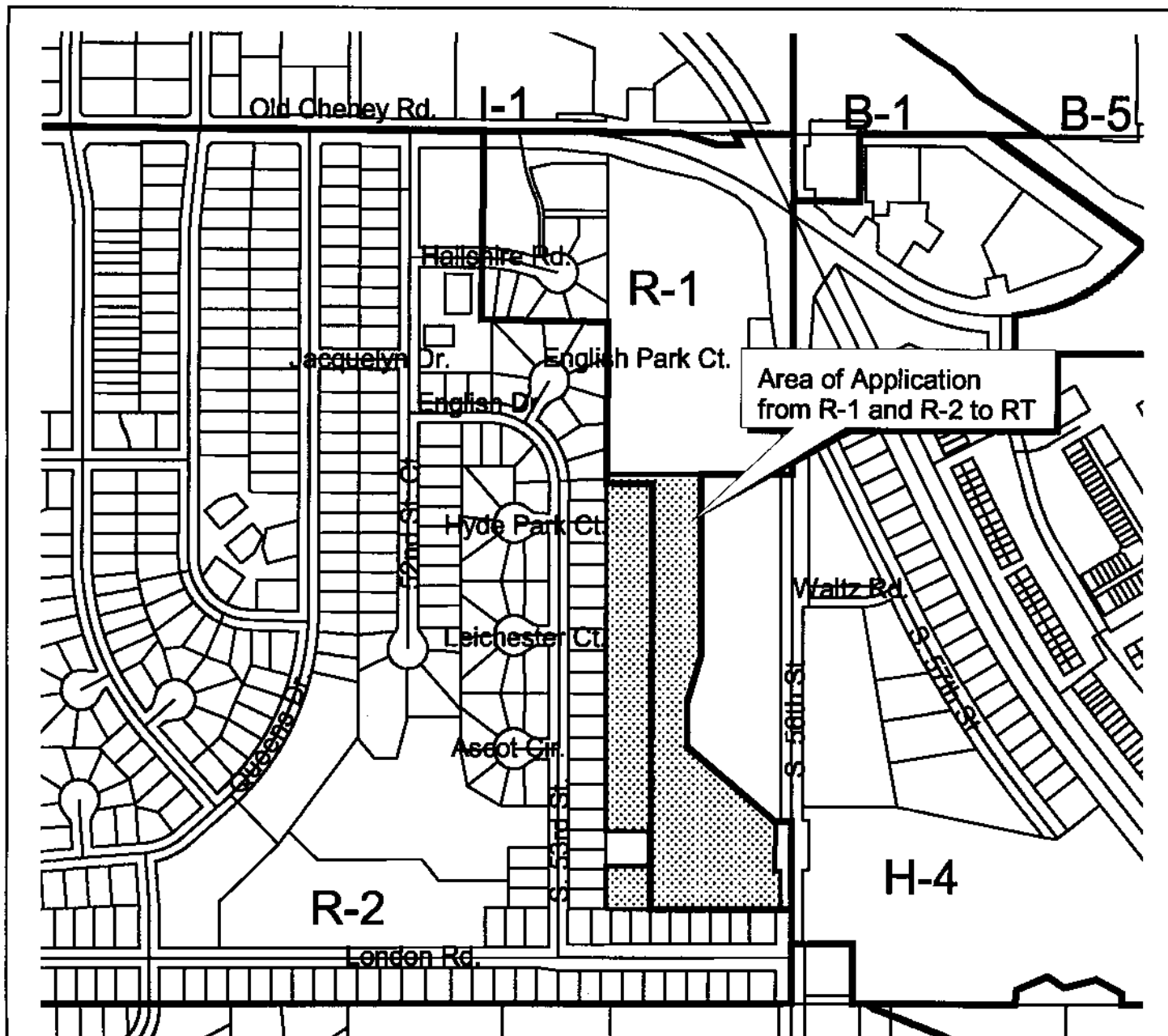
Hunter moved approval, with conditions, with the amendment to Condition #1.1.15 as requested by the applicant, seconded by Steward.

Newman thinks she likes this better now. She didn't like it the first time around.

Carlson expressed appreciation to the developer for being sensitive to the tree masses and the sensitive area of Beal Slough. He believes this will probably work.

Motion to approve the Planning staff recommendation of conditional approval, with amendment to Condition #1.1.15, carried 7-0: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn voting 'yes'; Bayer and Duvall absent.



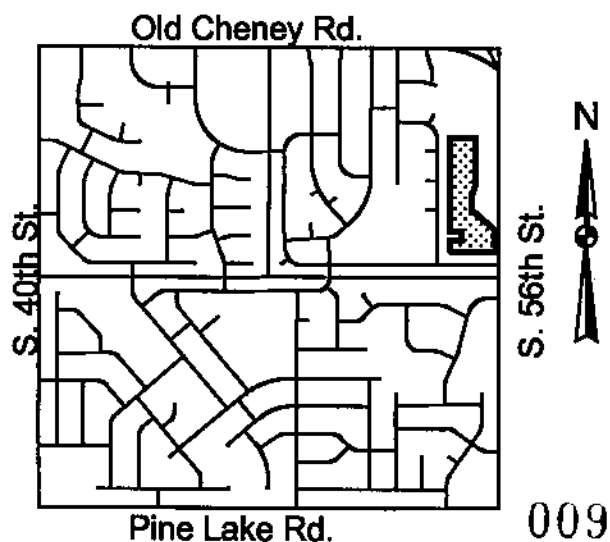
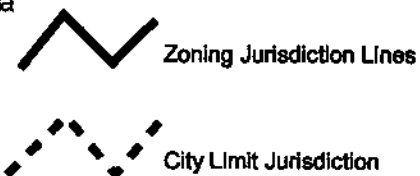


## Change of Zone #3306 56th & Waltz Rd.

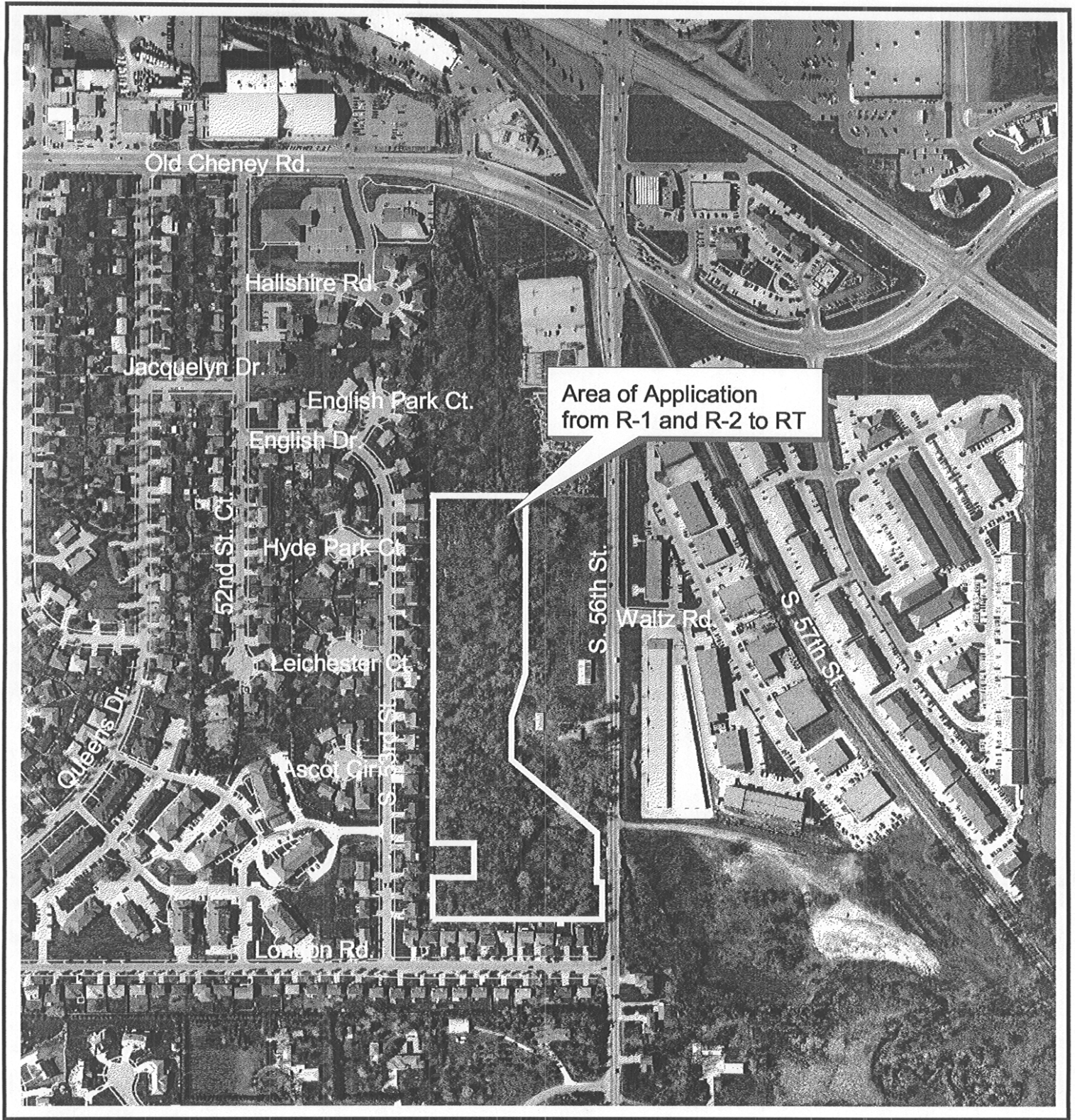
### Zoning:

R-1 to R-3	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 17 T9N R7E



Sheet 1 of 2  
Date: 3-22-01  
Lincoln City - Lancaster County Planning Dept.



**Change of Zone #3306  
56th & Waltz Rd.**



Sheet 2 of 2

Date: 3-22-01

Photograph Date: 1999 **010**

SCALE: NONE

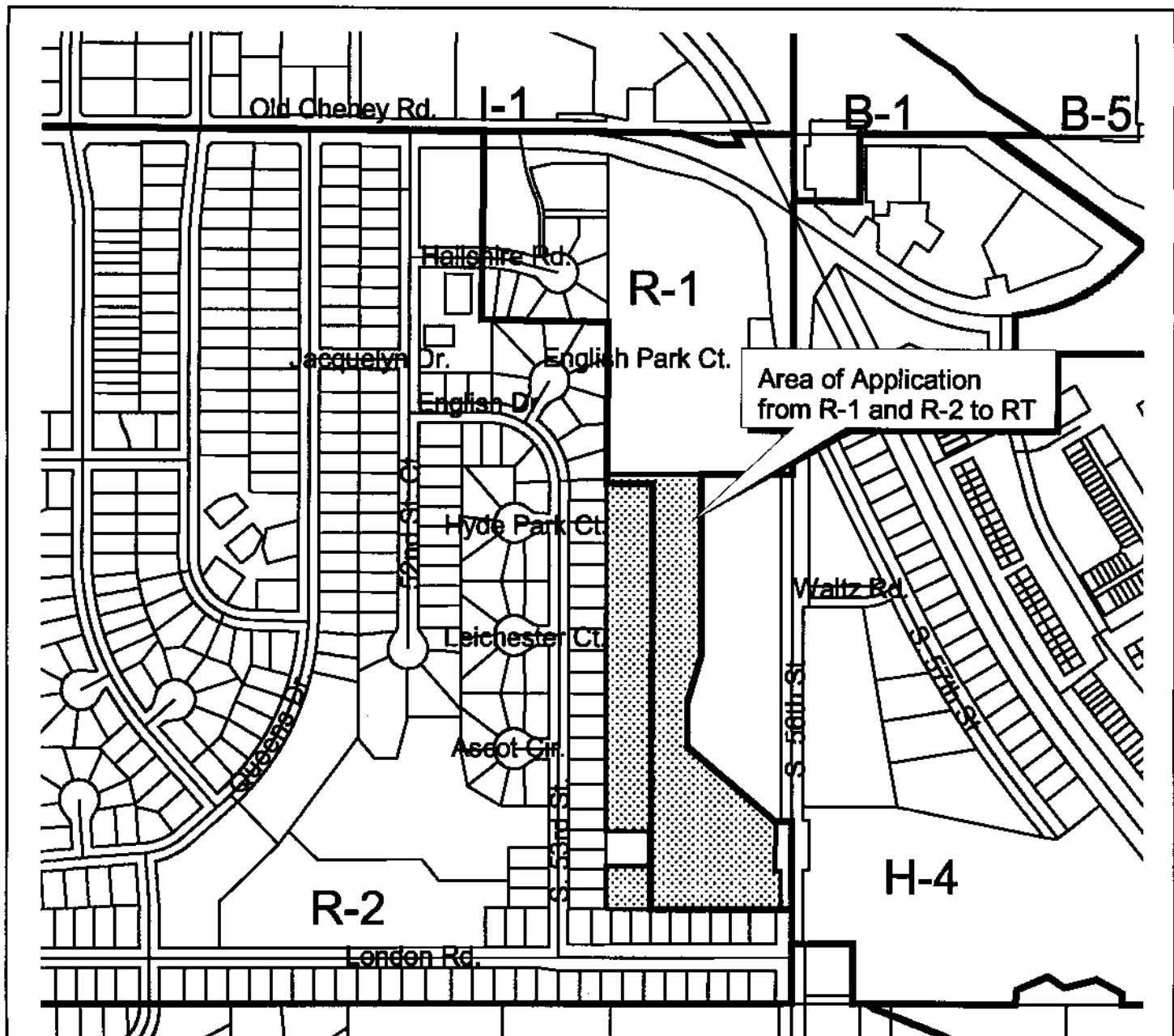
500-0351  
CHANGE OF ZONE  
FROM 'R-1' TO 'R-T'

**EXISTING "H-4"**

SOUTH 56TH STREET

011

RECEIVED  
LINCOLN COUNTY, OREGON



## Change of Zone #3306 56th & Waltz Rd.

### Zoning:

R-1 to R-3	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

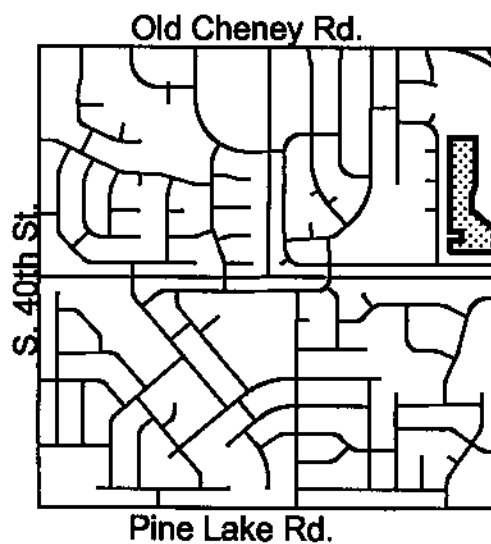
One Square Mile  
Sec. 17 T9N R7E



Zoning Jurisdiction Lines



City Limit Jurisdiction



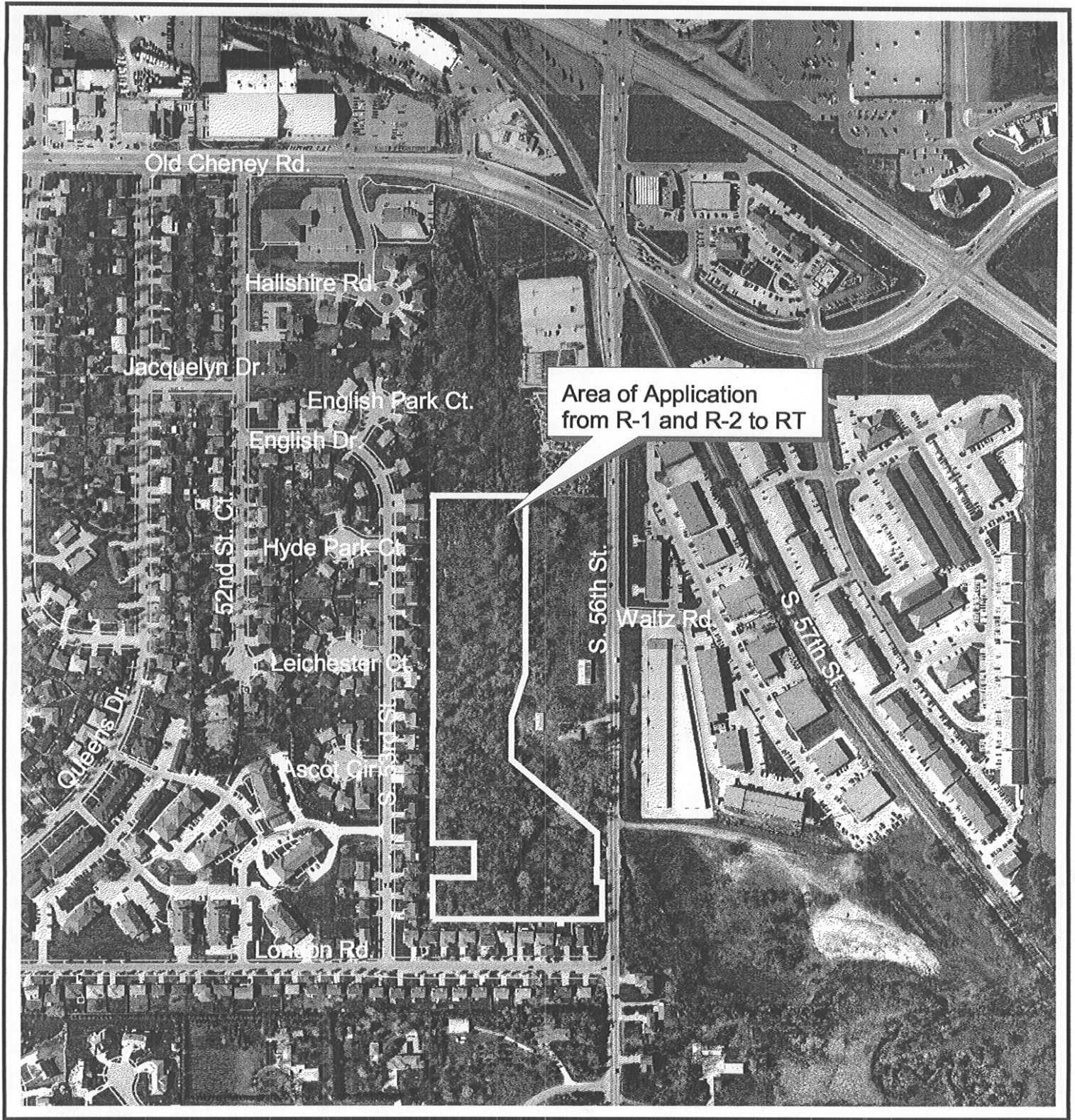
009

Sheet 1 of 2

Date: 3-22-01

Lincoln City - Lancaster County Planning Dept.





**Change of Zone #3306  
56th & Waltz Rd.**



Sheet 2 of 2

Date: 3-22-01

Photograph Date: 1999 **010**

Lincoln City - Lancaster County Planning Dept.

SCALE: NONE

500-0351  
CHANGE OF ZONE  
FROM 'R-1' TO 'R-T'

**EXISTING "H-4"**

SOUTH 56TH STREET

011

RECEIVED

LIBRARY OF THE DISTRICT OF COLUMBIA

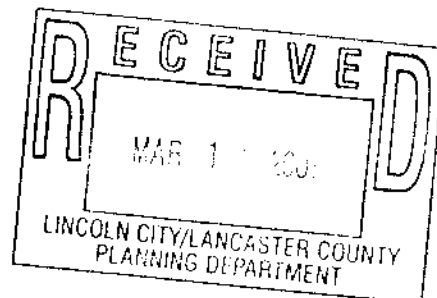
1964

LEGAL DESCRIPTION FOR  
CHANGE OF ZONE FROM 'R-2' TO 'R-T'

A survey of a portion of Lot 43 Irregular Tract, located in the Northeast Quarter of Section 17 Township 9 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. More particularly described by metes and bounds as follows.

Commencing at the East One Quarter of Section 17 Township 9 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. Thence North 00 Degrees 00 Minutes 00 Seconds West (an assumed bearing) on the East line of the Northeast quarter of said Section 17 a distance of 285.00 feet; Thence South 89 Degrees 53 Minutes 46 Seconds West a distance of 33.00 feet; Thence South 89 Degrees 58 Minutes 09 Seconds West a distance of 391.61 feet to the Point of Beginning;

Thence South 89 Degrees 58 Minutes 09 Seconds West a distance of 138.60 feet; Thence North 00 Degrees 00 Minutes 33 Seconds East for a distance of 130.00 feet; Thence North 89 Degrees 58 Minutes 09 Seconds East for a distance of 130.00 feet; Thence North 00 Degrees 00 Minutes 33 Seconds East for a distance of 105.00 feet; Thence South 89 Degrees 58 Minutes 09 Seconds West for a distance of 130.00 feet; Thence North 00 Degrees 00 Minutes 33 Seconds East for a distance of 1046.24 feet; Thence South 89 Degrees 46 Minutes 25 Seconds East for a distance of 140.49 feet; Thence South 00 Degrees 05 Minutes 37 Seconds West for a distance of 1280.61 feet; POINT OF BEGINNING and containing a calculated area of 165,092.19 square feet or 3.789 acres more or less.



**LEGAL DESCRIPTION FOR  
CHANGE OF ZONE FROM 'R-1' TO 'R-T'**

A survey of a portion of Lot 43 Irregular Tract, located in the Northeast Quarter of Section 17 Township 9 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. More particularly described by metes and bounds as follows.

Commencing at the East One Quarter of Section 17 Township 9 North Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. Thence North 00 Degrees 00 Minutes 00 Seconds West (an assumed bearing) on the East line of the Northeast quarter of said Section 17 a distance of 285.00 feet; Thence South 89 Degrees 53 Minutes 46 Seconds West a distance of 33.00 feet to the Point of Beginning;

Thence South 89 Degrees 58 Minutes 09 Seconds West a distance of 391.61 feet;  
Thence North 00 Degrees 05 Minutes 37 Seconds East for a distance of 1280.61 feet;  
Thence North 89 Degrees 46 Minutes 25 Seconds West for a distance of 140.49 feet;  
Thence North 00 Degrees 00 Minutes 33 Seconds East for a distance of 26.09 feet;  
Thence North 89 Degrees 53 Minutes 46 Seconds East for a distance of 288.53 feet;  
Thence South 00 Degrees 04 Minutes 02 Seconds West for a distance of 548.15 feet;  
Thence South 16 Degrees 53 Minutes 42 Seconds West for a distance of 142.43 feet;  
Thence South 00 Degrees 04 Minutes 02 Seconds West for a distance of 134.22 feet;  
Thence South 49 Degrees 59 Minutes 19 Seconds East for a distance 348.16 feet;  
Thence South 00 Degrees 00 Minutes 00 Seconds East for a distance of 150.00 feet;  
Thence North 90 Degrees 00 Minutes 00 Seconds East for a distance of 17.00 feet;  
Thence South 00 Degrees 00 Minutes 00 Seconds East for a distance of 115.06 feet to the POINT OF BEGINNING and containing a calculated area of 271,779.63 square feet or 6.239 acres more or less.

